

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3/13/19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x :
UNITED STATES OF AMERICA

-v.-

: AMENDED FINAL ORDER
OF FORFEITURE

ERWIN MAYER,

Defendant.

: S3 09 Cr. 581 (WHP)

-----x :
-----x

WHEREAS, on or about March 4, 2010, ERWIN MAYER, (the "defendant"), among others, was charged in a thirty-one count Superseding Indictment S3 09 Cr. 581 (WHP) (the "Indictment") with violations of Title 18, United States Code, Section 371 (Count One); tax evasion as to various tax shelter clients, in violation of Title 26, United States Code, Section 7201 (Counts Two through Seven, Nine, Eleven, Thirteen, and Seventeen); engaging in a corrupt endeavor to obstruct and impede the Internal Revenue Laws, in violation of Title 26, United States Code, Section 7212(a) (Count Twenty-Four); personal income tax evasion, in violation of Title 26, United States Code, Section 7201 (Counts Twenty-Nine and Thirty); with mail fraud, in violation of Title 18, United States Code, Sections 1341 and 2 (Count Thirty-One);

WHEREAS, the Indictment included a forfeiture allegation seeking, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(A) and Title 28, United States Code,

Section 2461, the forfeiture of all property real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses alleged in Counts One and Thirty-One, including but not limited to the following:

- a. At least \$180,000,000 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the conspiracy to commit the mail and wire fraud offenses contained in Count One and the mail fraud offense contained in Count Thirty-One, for which the defendants are jointly and severally liable;
- b. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 340 White Oak Lane, Winnetka, Illinois 60093, more particularly described as a single-family home owned by ERWIN MAYER and/or family members, either directly or indirectly;
- c. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 570 Illinois Avenue, Green Lake, Wisconsin, 54941, more particularly described as a single-family home owned by ERWIN MAYER and/or family members, either directly or indirectly;
- d. A sum of at least \$10,000,000 in securities, notes, United States currency, funds, or other monetary instruments, on deposit at Goldman Sachs & Co., in account numbers 020-68232-4, 020-27889-1, 020-27888-3, 020-27-887-5, 020-49539-6, 020-68233-2, and 020-30032-3 held in the name of Maxoscar Investments LLC, and all accounts containing funds that are traceable thereto;
- e. A sum of at least \$10,000,000 in securities, notes, United States currency, funds, or other monetary instruments, on deposit at Goldman Sachs

& Co., in account numbers 020-16146-9 and 020-1638-9 held in the name of CMT Investors LLC, and all accounts containing funds that are traceable thereto;

- f. All United States currency, funds, or other monetary instruments on deposit in account number 4352882 in the name of ERWIN MAYER and Jennifer Mayer at Northern Trust, and all accounts containing funds that are traceable thereto;

WHEREAS, on or about October 19, 2010, the defendant pled guilty to Counts One and Twenty-Nine of the Indictment pursuant to a plea agreement with the Government;

WHEREAS, under the terms of the plea agreement, the defendant agreed to forfeit to the United States the following:

- (a) All funds on deposit in account numbers 020-68232-4, 020-27889-1, 020-27888-3, 020-27-887-5, 020-49539-6, 020-68233-2, and 020-30032-3 at Goldman Sachs & Co., held in the name of "Maxoscar Investments LLC";
- (b) All funds on deposit in account numbers 241-27211, 241-23775, 241-27212, 241-23777, 241-27214, and 241-23774 at Morgan Stanley/Smith Barney, and Illinois Bright Start account numbers 50001-48864, 50001-48827, and 50001-48830, in the name of "Jennifer Mayer," either personally or as custodian;
- (c) All funds on deposit in account numbers 020-16146-9 and 020-163-689 at Goldman Sachs & Co. in the name "CMT Investors LLC";
- (d) All funds on deposit in account number 223-17764 at Deutsche Bank in the name "CMT Investors";
- (e) All funds on deposit in account number 4804003339 at Harris Bank;

- (f) All funds on deposit in account numbers 6150039781, 6110253077, 6110345553, and 4352882 at Northern Trust account in the name of "Erwin Mayer" and/or "Jennifer Mayer";
- (g) All funds on deposit at Fidelity Individual Retirement Accounts numbers 130776777 and 143310271 held in the name of "Erwin Mayer";
- (h) All right, title and interest in the real property and residence located at 340 White Oak Lane, Winnetka, Illinois; and
- (i) All right, title and interest in the real property and residence located at 579 Illinois Avenue, Green Lake, Wisconsin (the "579 Illinois Avenue Property");
- ((a) through (i), collectively the "Subject Properties");

WHEREAS, on or about October 19, 2010, the Government entered into a settlement agreement with the defendant's wife, Jennifer Mayer, in which she agreed not to contest the forfeiture of the Subject Properties, and the Government agreed not to forfeit the following Subject Properties:

- (a) All funds on deposit in account numbers 241-27211, 241-23775, 241-27212, 241-23777, 241-27214, 241-23774, at Morgan Stanley/Smith Barney, and Illinois Bright Start account numbers, 50001-48864, 50001-48827, 50001-48830, in the name of "Jennifer Mayer", either personally or as custodian;
- (b) \$351,819 in funds on deposit in account number 020-68233-2 at Goldman Sachs and Co. in the name of "Maxoscar Investments LLC"; and
- (c) All funds on deposit in account number 4804003339 at Harris Bank in the name of "Jennifer Mayer";

WHEREAS, on or about October 20, 2012, the Court entered a Consent Preliminary Order of Forfeiture, which ordered the forfeiture to the United States of all of the defendants right, title and interest in the Subject Properties (a copy of said order is attached hereto as Exhibit A);

WHEREAS, the Consent Preliminary Order of Forfeiture directed the United States to publish, for at least thirty consecutive days, notice of the Order, notice of the United States' intent to dispose the Subject Properties, and the requirement that any person asserting a legal interest in the Subject Properties must file a petition with the Court in accordance with the requirements of Title 21, United States Code, Section 853(n) (2) and (3);

WHEREAS, pursuant to the provisions of Title 21, United States Code, Section 853(n) (1), Rule 32.2(b) (6) of the Fed. R. Crim. P., and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions the Government published notice of the Consent Preliminary Order of Forfeiture and the intent of the United States to dispose of the Subject Properties on www.forfeiture.gov, the official U.S. government internet site, beginning on April 13, 2011, and continuing for thirty consecutive days thereafter, proof of publication (a copy

of which is attached hereto as Exhibit B) was filed with the Court on May 22, 2013;

WHEREAS, on or about April 3, 2012, Jennifer P. Mayer, executed a waiver in which she agreed, as the sole managing member and agent of ATA Investors LLC, a Wisconsin LLC, to waive formal notice of the Consent Preliminary Order of Forfeiture. She further agreed that no claims will be filed against, or contesting the forfeiture of the 579 Illinois Avenue Property, which is titled to ATA Investors, LLC (a copy of said waiver is attached hereto as Exhibit C);

WHEREAS, on or about December 17, 2013, Jennifer P. Mayer, executed a Quit Claim Deed, as the sole managing member and agent of ATA Investors LLC, a Wisconsin LLC, transferring title of the 579 Illinois Avenue Property to the United States (a copy of said Quit Claim Deed is attached hereto as Exhibit D);

WHEREAS, pursuant to Title 21, United States Code, Section 853(n)(7), the United States shall have clear title to any forfeited property if no petitions for a hearing to contest the forfeiture have been filed within thirty (30) days of final publication of notice of the forfeiture as set forth in Title 21, United States Code, Section 853(n)(2);

WHEREAS, no person has filed a petition or claim asserting any interests in the Subject Properties and the time to do so has expired;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. All right, title and interest in the following Subject Properties (the "Forfeited Properties") is hereby forfeited and vested in the United States of America, and shall be disposed of according to law:

- (a) All funds on deposit in account numbers 020-68232-4, 020-27889-1, 020-27888-3, 020-27-887-5, 020-49539-6, and 020-30032-3 at Goldman Sachs & Co. held in the name of "Maxoscar Investments LLC";
- (b) \$5,901,335.33 in United States currency, from account number 020-68233-2 at Goldman Sachs & Co. held in the name of "Maxoscar Investments LLC";
- (c) All funds on deposit in account numbers 020-16146-9 and 020-163-689 at Goldman Sachs & Co. in the name "CMT Investors LLC";
- (d) All funds on deposit in account number 223-17764 at Deutsche Bank in the name "CMT Investors";
- (e) All funds on deposit in account numbers 6150039781, 6110253077, 6110345553, and 4352882 at Northern Trust account in the name of "Erwin Mayer" and/or "Jennifer Mayer";
- (f) All funds on deposit at Fidelity in Individual Retirement Accounts numbers 130776777 and 143310271 held in the name of "Erwin Mayer";

- (g) All right, title and interest of the owner of record in the real property and residence located at 340 White Oak Lane, Winnetka, Illinois, and is more particularly described as:

LOT "A" IN THE RESUBDIVISION OF CERTAIN LOTS IN WHITE OAK SUBDIVISION A SUBDIVISION OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 20, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, PIN: 05-20-400-039-000,

TOGETHER WITH ALL AND SINGULAR THE HEREDITAMENTS AND APPURTENANCES THEREUNTO BELONGING, OR IN ANYWAY APPERTAINING, AND THE REVERSIONS, REMAINDER AND REMAINDERS, RENT, ISSUES AND PROFITS THEREOF, AND ALL THE ESTATE, RIGHT, TITLE INTEREST, CLAIM OR DEMAND WHATSOEVER, OF THE GRANTORS, EITHER IN LAW OR EQUITY, OF, IN AND TO THE ABOVE DESCRIBED REAL ESTATE AS ABOVE DESCRIBED, UNTO THE GRANTEE AND HER HEIRS AND ASSIGNS FOREVER;

- (h) All right, title and interest of the owner of record in the real property and residence located at 579 Illinois Avenue, Green Lake, Wisconsin, and is more particularly described as:

LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS ALL THAT CERTAIN PROPERTY SITUATED IN THE COUNTY OF GREEN LAKE, AND STATE OF WI AND BEING DESCRIBED IN A DEED DATED 04/03/2000 AND RECORDED 04/17/2000 IN BOOK/PAGE: 532/493 AMONG THE LAND RECORDS OF THE COUNTY AND STATE SET FORTH ABOVE, AND REFERENCED AS FOLLOWS: THE FOLLOWING DESCRIBED REAL ESTATE IN GREEN LAKE COUNTY, STATE OF WISCONSIN: LOT ONE (1) OF CERTIFIED SURVEY MAP NO. 909 AS RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR GREEN LAKE COUNTY, WISCONSIN ON JUNE 23, 1978 AT 10:20 AM IN VOLUME 4 OF CERTIFIED SURVEY MAPS OF GREEN LAKE COUNTY ON PAGE 909;

2. ATA Investors LLC, a Wisconsin limited liability company, and Jennifer P. Mayer, as Sole Managing Member and Agent of ATA Investors LLC, the titled owner, have not filed a claim to

contest the forfeiture of the 579 Illinois Avenue Property and therefore their vested interest in the 579 Illinois Avenue Property is hereby extinguished and the 579 Illinois Avenue Property is hereby forfeited to the United States.

3. ATA Investors LLC, a Wisconsin limited liability company, and Jennifer P. Mayer, as sole managing member and agent of ATA Investors LLC, the titled owner, have transferred title of the 579 Illinois Avenue Property to the United States by Quit Claim Deed dated December 17, 2013 and therefore their vested interest in the 579 Illinois Avenue Property is hereby extinguished and the 579 Illinois Avenue Property is hereby forfeited to the United States.

4. Pursuant to Title 21, United States Code, Section 853(n)(7), the United States of America shall and is hereby deemed to have clear title to the Forfeited Properties.

5. The United States Treasury Department shall take possession of the Forfeited Properties and dispose of the same according to law, in accordance with Title 21, United States Code, Section 853(h).

6. The Clerk is hereby directed to send three certified copies of this Order to AUSA Sharon Cohen Levin, Chief of the Money Laundering and Asset Forfeiture Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

SO ORDERED:

William Pauley
HONORABLE WILLIAM H. PAULEY, III
UNITED STATES DISTRICT JUDGE

3/13/14
DATE